

HOUSE RESOURCES & CONSERVATION COMMITTEE
ADMINISTRATIVE RULES REVIEW

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2006 Legislative Session

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RESOURCE & CONSERVATION

IDAPA 37 - DEPARTMENT OF WATER RESOURCES

37.03.07 - STREAM CHANNEL ALTERATION RULES

DOCKET NO. 37-0307-0201

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 23, 2002.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 42-3803, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the temporary rulemaking:

The purpose of this rulemaking is to amend Rule 25 to provide that projects and activities approved under the Federal Clean Water Act (P.L. 92-500) are deemed to meet minimum standards in accordance with Section 42-3803(d), Idaho Code. The procedural requirements of Chapter 38, Title 42, Idaho Code, requiring the filing, processing and approval of an application for permit are dispensed with for a project or activity that obtains approval pursuant to the Federal Clean Water Act.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: **Protection of the public health, safety, or welfare.**

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the changes being made bring the rule into compliance with Idaho law.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary proposed rule, contact Norman C. Young at (208) 327-7910.

DATED this 5th day of October, 2002.

Joe Jordan, Chairman
Idaho Water Resource Board
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

025. EXEMPTIONS (Rule 25).

01. Work On Existing Or Proposed Reservoir Projects. Permits are not required

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under the provisions of Title 42, Chapter 38 for construction work on any existing or proposed reservoir project, including the dam, and such areas downstream as the Director may determine is reasonably necessary for construction and maintenance of the dam. (7-1-93)

02. Snake And Clearwater Rivers. Permits are not required for work within that portion of the Snake and Clearwater rivers from the state boundary upstream to the upper boundary of the Port of Lewiston Port District as it now exists or may exist in the future. (7-1-93)

03. Cleaning, Maintenance, Construction Or Repair Work. No permit is required of a water user or his agent to clean, maintain, construct, or repair any diversion structure, canal, ditch, or lateral or to remove any obstruction from a stream channel which is interfering with the delivery of any water under a valid existing water right or water right permit. (7-1-93)

04. Removal Of Debris. No permit is required for removal of debris from a stream channel provided that no equipment will be working in the channel and all material removed will be disposed of at some point outside the channel where it cannot again reenter the channel. (7-1-93)

05. Section 404 Permits Recognized. Projects and activities authorized under Section 404 of the Federal Clean Water Act (P.L. 92-500) meet the minimum standards of these rules. The procedural requirements of Chapter 38, Title 42, Idaho Code, requiring the filing, processing and approval of an application for permit are dispensed with as provided in Section 42-3803(d), Idaho Code, and an authorization for a project or activity pursuant to Section 404 of the Federal Clean Water Act is recognized as a permit under these rules implementing Chapter 38, Title 42, Idaho Code. (9-23-02)T